IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 18.8.2006

National Insurance Company Limited

...Appellant

versus

Savitari Devi and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr. Justice S.D.Anand.

Present: Mr.R.N.Singal, Advocate,
for the appellant.

UMA NATH SINGH, J.

This FAO arises out of an award dated 30.3.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Kaithal, in MACT Case No.9 of 2005, awarding a sum of Rs.4,18,000/- in death case of a 32 years old man, said to be a private Homeopathic practitioner.

Learned counsel submitted that the Insurance Company filed an application under Section 170 of the Motor Vehicles Act, 1988 (for short `the Act') before the Tribunal but the Tribunal did not dispose of the application and has passed the impugned award. Learned counsel also submitted that this is a case of collusion between the claimants and the owner of the vehicle, as the FIR did not contain the description of the vehicle and the entire case has been built up on the statement of one Sukhbir Singh (PW2), who was following the motorcycle of the deceased.

We have carefully examined the submissions of learned counsel and we do not find any merit therein. Admittedly, the application under Section 170 of the Act was filed with the written statement on

10.8.2005 and thereafter, the exercise of leading evidence started and completed. Throughout the trial of the claim petition, the Insurance Company did not raise any objection, nor did it take any step for disposal of the application under Section 170 of the Act. Further, it appears from the evidence of Sukhbir Singh (PW2) that the Insurance Company was allowed to contest the application, of course indirectly, as the counsel for the Insurance Company has cross-examined the witness. Therefore, the submission of learned counsel does not find favour with the Court. As regards the collusion, it appears that the pillion rider of the victim vehicle had lodged the FIR but the number of the offending vehicle was noted by Sukhbir Singh (PW2) who, in his statement, has mentioned that he followed the offending vehicle and, after covering a distance of 8 kms., noted down its number. Further, the allegation of collusion also appears to be falsified by a detailed cross-examination of the said witness on behalf of the driver and the registered owner of the offending vehicle. That apart, the quantum does not appear to be on higher side because the claimants are the widow, three minor children and parents of the deceased.

In the premise discussed hereinabove, the FAO, being devoid of merits, is hereby dismissed.

(UMA NATH SINGH)
JUDGE

August 18, 2006
pk

(S.D.ANAND)
JUDGE